

**INDIVIDUAL RULES AND MOTION PRACTICES OF  
SENIOR JUDGE STERLING JOHNSON, JR.<sup>1</sup>**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

Courtroom Deputy: August Marziliano  
(718) 613-2465

**DOCKETING PROCEDURE**

To facilitate the work of the Clerk's Office and avoid confusion, all papers should bear the Judge's name (Hon. Sterling Johnson, Jr.) and the docket number of the matter, followed by the initials "SJ" and the initials of the assigned magistrate judge. Unless otherwise ordered by Judge Johnson in a specific case, matters before the Judge shall be conducted in accordance with the following practices:

**COMMUNICATIONS WITH CHAMBERS**

**All phone calls concerning docketing, scheduling, and calendar matters or adjournments shall be made to August Marziliano at (718) 613-2465.** Counsel are directed to submit all inquiries in writing, except in urgent situations requiring immediate attention. For procedural questions not covered by these Individual Rules, please refer to the Federal Rules of Civil/Criminal Procedure and the Local Rules for the Eastern District of New York.

Faxes to Chambers are **not** permitted unless prior authorization is obtained. When materials are faxed or hand-delivered, they **must** also be filed electronically through ECF.

**ELECTRONIC FILING**

**All documents submitted to the Court, including briefs, letters, exhibits, and all other filings, MUST be electronically filed through ECF.** One courtesy copy of all motion papers **MUST** be submitted to Chambers and clearly marked "COURTESY COPY."

**RULES AND PROCEDURES**

**Absent an emergency, any request for an adjournment of a court appearance or for an extension of time to file pleadings MUST be made at least 48 hours in advance.** Requests for adjournment or extension of time must state: (1) the original date, (2) the number of previous requests for adjournments or extensions, (3) whether these previous requests were granted or denied, and (4) whether the adversary consents, or the reasons given for refusing to consent. If the requested adjournment or extension affects any other scheduling dates, a proposed revised scheduling order must be attached. Requests for an extension of time to file pleadings that are made after the pleadings have already become due will be denied.

Motions are returnable according to the parties' briefing schedules. **Generally, oral arguments**

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<sup>1</sup> The individual rules are published in the New York Law Journal on Tuesdays and are available online at [www.nyed.uscourts.gov](http://www.nyed.uscourts.gov).

**will not be held unless deemed necessary by Chambers.** The parties will be notified in the event that the Court determines that oral arguments should be held.

### **Pre-Motion Conferences in Civil Cases**

For discovery motions, follow Local Civil Rules 37.3 and 6.4 in all cases where the parties are represented by counsel.

**A pre-motion conference with the Court or a magistrate judge is required before making a motion for summary judgment.** Pre-motion conferences are not required for any other motion. To arrange a pre-motion conference, the moving party shall submit a letter not to exceed three pages in length setting forth the basis for the summary judgment motion. A copy of the letter shall be served on all opposing parties. All parties so served must serve and file a letter response, not to exceed three pages, within seven days from service of the notification letter.

Consistent with Local Civil Rule 72.2, all non-dispositive pretrial matters are automatically referred to the assigned magistrate judge unless otherwise ordered.

### **Memoranda of Law**

Unless prior permission has been granted, memoranda of law in support of and in opposition to motions must not exceed twenty pages, and reply memoranda must not exceed ten pages. Memoranda of ten pages or more shall contain a table of contents. All memoranda of law shall be produced in a 12-point font and shall have one inch margins on all sides.

### **Filing of Motion Papers**

Subject to court approval, the parties are to set up their own briefing schedule. No changes in the approved schedule may be made without court approval. No party is to serve any motion papers prior to obtaining court approval for the schedule. Each party is responsible for filing, electronically through ECF and with a courtesy copy to Chambers, its own motion papers.

### **Default Judgments**

Plaintiffs moving for default judgment **MUST** forward to the Clerk of the Court their requests for a certificate/notation of default. No default judgment will be considered until the Clerk has entered a notation of default.

### **Pretrial Procedures for Civil Cases**

Unless otherwise ordered by the Court, within 60 days from the date for the completion of discovery in a civil case, the parties shall submit to the Court for its approval a joint pretrial order, which shall include the following:

- The full caption of the action;
- The names (including firm names), addresses, and telephone and fax numbers of trial counsel;
- A brief statement by the plaintiff as to the basis of subject matter jurisdiction, and a brief statement by each other party as to the presence or absence of subject matter jurisdiction, including citations to all statutes relied on and relevant facts as to citizenship and

- jurisdictional amount;
- A brief summary by each party of the claims and defenses that party has asserted which remain to be tried, without recital of evidentiary matters but including citations to all statutes relied on, and identifying all claims and defenses previously asserted which are not to be tried;
- A statement by each party as to whether the case is to be tried with or without jury, and the number of trial days needed;
- A statement as to whether or not **all** parties have consented to trial of the case by a magistrate judge;
- Any stipulations or statements of fact or law which have been agreed to by all parties;
- A list of the names and addresses of all witnesses, including possible witnesses who will be called only for impeachment or rebuttal purposes and so designated, together with a brief narrative statement of the expected testimony of each witness;<sup>2</sup>
- A designation by each party of deposition testimony to be offered in its case in chief, with any cross-designation and objections by any other party;
- A list of exhibits to be offered in evidence and, if not admitted by stipulation, the party or parties that will be offering them, including possible impeachment documents and/or exhibits, exhibits that will be offered only on rebuttal, and a description of the basis for any objections regarding the admissibility of any exhibits.

All exhibits must be pre-marked for the trial and exchanged with the other parties at least ten days before trial. Where exhibits are voluminous, they should be placed in binders with tabs.

Parties are expected to resolve before trial all issues of authenticity, chain of custody and related grounds. Meritless objections based on these grounds may result in the imposition of sanctions.

### **Final Pretrial Orders**

Unless otherwise ordered by the Court, each party shall file electronically through ECF and with a courtesy copy to Chambers, 15 days before the date of commencement of trial if such a date has been fixed, or 30 days after the filing of the final pretrial order if no trial date has been fixed:

- In jury trials, proposed charges and voir dire questions. Aside from being filed through ECF, proposed jury charges must also be submitted to chambers in IBM Word Perfect format on either CD-ROM or on a 3.5" diskette;
- By claim, a detailed statement regarding damages and other relief sought;
- In bench trials, a statement of the elements of each claim or defense involving such party, together with a summary of the facts relied upon to establish each element;
- In all cases, motions addressing any evidentiary or other issues which should be resolved in limine.

Please refer to the Memorandum to Counsel on this site for further explanation regarding expectations and requirements for trial.

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<sup>2</sup> Only listed witnesses will be permitted to testify, except when prompt notice has been given and good cause shown.

### **Pretrial Procedures for Criminal Cases**

Unless directed otherwise in a particular case by the Court or by chambers, the following rules apply:

- One week (seven calendar days) prior to jury selection, the parties shall file through ECF – as well as submit to chambers in IBM Word Perfect format on either CD-ROM or on a 3.5" diskette (or via e-mail in IBM Word Perfect format , if provided prior approval) – proposed jury charges (with a table of contents), a proposed verdict form, and proposed voir dire questions.
- The government shall provide the Court with (1) a clean copy of the indictment, with redactions as necessary for trial, (2) the Court's copy of the exhibit binder (including an exhibit list), (3) the 3500 material binder (if applicable) and (4) the government's witness list no later than the morning of the day jury selection is scheduled to begin, unless the Court has approved otherwise.
- Please be certain to bring to court an extra copy of any document the court reporter may need to rely on during trial, including transcripts of recordings that may be provided to the jury. In addition, to the extent it is anticipated the spelling of a name or of a word that will arise at trial could be difficult for the court reporter, please be certain to provide the spelling of any such name or word to the court reporter beforehand.